

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Ruben et al.

Docket No.: PF523P1

Patent No.: 7,138,501

Issued: November 21, 2006

For: Antibodies That Immunospecifically Bind to B
Lymphocyte Stimulator Protein

**LETTER REGARDING
PATENT TERM ADJUSTMENT CALCULATION**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

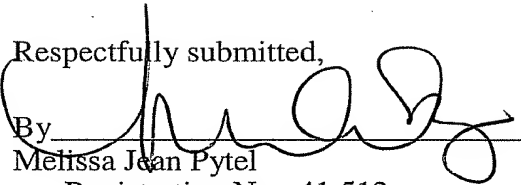
Upon reviewing the 7,138,501 patent (hereinafter, '501 patent), the undersigned respectfully submits that there appears to be an error in calculation of the Patent Term Adjustment. The title page of the '501 patent indicates "the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 754 days." The undersigned believes the term adjustment is inappropriate.

In particular, the undersigned notes that on June 13, 2006, Applicants received from the Patent and Trademark Office (hereinafter, Office) a decision in response to Applicants' timely Application for Patent Term Adjustment under 37 CFR 1.705(b) which asserts that Applicants' delay during prosecution of the '501 patent is 240 days. *See, Exhibit A.* In addition, according to PAIR, Applicants have been awarded an 889 day patent term adjustment due to the Office's failure to issue the '501 patent within three years of the '501 patent's filing date. *See, Exhibit B.* Accordingly, Applicants respectfully submit that the patent term adjustment recited on the face of the '501 patent may be longer than what is appropriate.

The undersigned believes that any duty to disclose the error in calculation of patent term to the Office has been satisfied by the above.

Dated: January 9, 2007

Respectfully submitted,

By 
Melissa Jean Pytel

Registration No.: 41,512
HUMAN GENOME SCIENCES, INC.
14200 Shady Grove Road
Rockville, Maryland 20850
(301) 610-5764

MJP/DBS/ba



RECEIVED

JUN 13 2006

KKH MS EC
HGS PATENT DEPT.

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JUN 12 2006

OFFICE OF PETITIONS

Human Genome Science Inc.
Intellectual Property Dept.
14200 Shady Grove Road
Rockville, Maryland 20850In re Application of
Ruben et al.
Application No. 09/880,748
Filed: June 15, 2001
Attorney Docket No. PF523P1: :
: DECISION GRANTING PETITION
: :
: :

This decision is in response to Applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" timely filed on March 20, 2006 requesting that the Office adjust the PTA determination at the time of the mailing of the notice of issuance from a determination of 354 days to a determination of either 374 or 428 days.

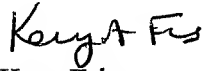
Applicants application for PTA is **GRANTED..** The Office will adjust the PTA calculation at the time of the mailing of the notice of allowance to adjust this determination to reflect this decision. The proper amount of PTA at the time of the mailing of the notice of allowance is **374 days.**

Applicants analysis is very thorough and detailed. The Office thanks applicants for their review of such PTA determination. Applicants arguments and facts are accurate. Accordingly, the overall office delay is 614 days as asserted by applicant. As for applicant delay, the office believes the proper amount of delay is 240 days. The applicants addressed the submission of the September 27, 2005 paper as a reduction under 37 CFR 1.704(c)(8) but the reduction is pursuant to 1.704(b). The amendment after final on August 4, 2005 did not place the case in condition for allowance so the three-month clock continued until the submission on September 27, 2005 that placed the case in condition for allowance. The delay was the same 54 days as asserted by applicant but the rationale was because of 1.704(b) rather than 1.704(c)(8). Accordingly the correct amount of PTA at the time of the mailing of the notice of allowance is 374 days (614-240=374).

After the mailing of this decision, the Office will forward this patented file to the Office of Patent Publications for a prompt issuance of the patent. The Office notes that any Office failure to meet the requirements of 37 CFR 1.702(a)(4) and 1.702(b) will be additionally added to the present determination and provided notice of such change in the issue notification letter that is mailed to applicants approximately three weeks prior to the issue date of the patent. Any delays by applicant pursuant to 37 CFR 1.704(c)(10) will reduce the amount determined at the notice of allowance and be reflected in the same issue notification letter.

The Office has assessed the \$200.00 fee. No additional fees are required in this deciding this application.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy, at 571-272-7757.



Kery Fries
Senior Legal
Office of Patent Legal Administration
Office of Deputy Commissioner
For Patent Examination Policy

cc: adjusted Pair calculation

Exhibit B**09/880,748 ANTIBODIES THAT IMMUNOSPECIFICALLY BIND BLYS****01-03-
2007::14:34:18****Patent Term Adjustments**

Patent Term Adjustment (PTA) for Application Number: 09/880,748

Filing or 371(c) Date:	06-15-2001	USPTO Delay (PTO) Delay (days):	889
Issue Date of Patent:	11-21-2006	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	155
Post-Issue Petitions (days):	+0	Total PTA (days):	754
USPTO Adjustment(days):	20	Explanation Of Calculations	

Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
11-01-2006	PTA 36 Months	256	
11-21-2006	Patent Issue Date Used in PTA Calculation	124	
10-24-2006	Dispatch to FDC	⬆	
06-12-2006	Record a Petition Decision of Granted for Patent Term Adjustment after Allowance	⬆	
06-12-2006	Record a Petition Decision of Granted for Patent Term Adjustment after Allowance	⬆	
06-09-2006	Adjustment of PTA Calculation by PTO	⬆	
06-09-2006	Adjustment of PTA Calculation by PTO	20	
04-28-2006	Receipt into Pubs	⬆	
03-20-2006	Petition Entered	⬆	
03-25-2006	Application Is Considered Ready for Issue	⬆	
03-20-2006	Issue Fee Payment Verified	⬆	
03-20-2006	Issue Fee Payment Received	⬆	
01-05-2006	Sequence Forwarded to Pubs on Tape	⬆	
12-21-2005	Mail Notice of Allowance	17	
12-16-2005	Notice of Allowance Data Verification Completed	⬆	
12-16-2005	Case Docketed to Examiner in GAU	⬆	
12-06-2005	IFW TSS Processing by Tech Center Complete	⬆	
11-04-2005	Request for Extension of Time - Granted	⬆	
09-27-2005	Rule 47 / 48 Correction of Inventorship Papers Filed	⬆	
09-28-2005	Mail Advisory Action (PTOL - 303)	⬆	
09-26-2005	Advisory Action (PTOL-303)	⬆	
08-04-2005	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	⬆	
08-11-2005	Date Forwarded to Examiner	⬆	
08-04-2005	Amendment after Final Rejection	⬆	
05-04-2005	Mail Final Rejection (PTOL - 326)	20	
04-29-2005	Final Rejection	⬆	
01-18-2005	Substitute Specification Filed	⬆	
01-31-2005	Date Forwarded to Examiner	⬆	
01-18-2005	Supplemental Response		35
01-18-2005	Workflow incoming amendment IFW		⬆

12-14-2004	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received		⬆
12-20-2004	Date Forwarded to Examiner		⬆
12-14-2004	Response after Non-Final Action		⬆
12-14-2004	Workflow incoming amendment IFW		
09-14-2004	Reference capture on IDS		
09-14-2004	Mail Non-Final Rejection	207	
09-13-2004	Non-Final Rejection	⬆	
12-05-2003	Information Disclosure Statement (IDS) Filed		46
11-13-2003	Case Docketed to Examiner in GAU		⬆
11-05-2003	Case Docketed to Examiner in GAU		⬆
10-23-2003	Date Forwarded to Examiner		⬆
10-20-2003	Response to Election / Restriction Filed		74
10-20-2003	Request for Extension of Time - Granted		⬆
06-02-2003	Examiner Interview Summary Record (PTOL - 413)		⬆
05-07-2003	Mail Restriction Requirement	265	
05-05-2003	Requirement for Restriction / Election	⬆	
08-14-2002	Case Docketed to Examiner in GAU	⬆	
06-27-2002	Case Docketed to Examiner in GAU	⬆	
05-24-2002	Application Dispatched from OIPE	⬆	
05-23-2002	Application Is Now Complete	⬆	
03-08-2002	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in	⬆	
03-08-2002	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	⬆	
12-11-2001	Notice Mailed--Application Incomplete--Filing Date Assigned	⬆	
12-07-2001	Correspondence Address Change	⬆	
12-05-2001	IFW Scan & PACR Auto Security Review	⬆	
11-28-2001	IFW Scan & PACR Auto Security Review	⬆	
07-19-2001	CRF Is Good Technically / Entered into Database	⬆	
06-15-2001	CRF Disk Has Been Received by Preexam / Group / PCT	⬆	
06-15-2001	Initial Exam Team nn	⬆	

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